

## ***Outside Sections***

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Outside Sections .....	7-3
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## **Section 4 - Index Governor's Councillors' Salaries**

### **SECTION 4.**

(A) Section 3 of chapter 6 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the figure "\$26,025", in line 2, the following words:- , and an additional amount to be calculated by applying the adjustment percentage most recently ascertained by the governor pursuant to Article CXVIII of the Articles of Amendment to the Constitution to the preceding figure.

(B) This section shall take effect on January 7, 2015.

#### ***Summary:***

This section increases or decreases the salaries of Governor's Councillors according to median household income changes, like the salaries of legislators and constitutional officers under present law, effective in January 2015 when the next calculation occurs.

## **Section 5 - Commonwealth Education Innovation Trust Fund**

### **SECTION 5.**

Chapter 6A of the General Laws is hereby amended by inserting after section 14A the following section:-  
Section 14B. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Education Innovation Trust Fund. The fund shall receive annual appropriations from the commonwealth, which may be supplemented by funds donate by the business and nonprofit communities, as well as individual donors and philanthropists. The secretary of education shall be the trustee of the fund and, in consultation with the boards and commissioners of early education and care, elementary and secondary education, and higher education, shall expend monies to foster innovation in policy, practice, research, professional development, and other capacity-building measures.

#### ***Summary:***

This section establishes the Commonwealth Education Innovation Trust Fund, to allow the Secretary of Education to expend funds to promote educational innovation programs.

## **Section 6 - Interagency Agreements between DDS and Medicaid or DMH**

### **SECTION 6.**

Chapter 19B of the General Laws is amended by striking out section 18 and inserting in place thereof the following section:-

Section 18. Subject to approval by the secretary of health and human services, the commissioner may enter into interagency agreements with the commissioner of mental health or the office of Medicaid for the coordinated regulation of or for the coordinated or joint management of certain services that are required or that must be provided by both the department of developmental services and the department of mental health or the office of Medicaid. Such an agreement may be entered where it is determined by the commissioners of the departments or the director of the office of Medicaid that the services require coordinated regulation to ensure development of substantially similar standards consistent with certain shared needs of mentally ill persons and persons with an intellectual disability or persons enrolled in the commonwealth's money follows the person demonstration or related waivers or that the services will be more efficiently and effectively provided by a single, unified management system than by two separate management systems. These services may include, without limitation, transportation, laundry, data processing, certain services to mixed populations of mentally ill and mentally retarded individuals with common needs for care and treatment or to individuals who

are diagnosed as both a person with an intellectual disability and mentally ill, research activities, program monitoring and services provided to persons enrolled in the commonwealth's money follows the person demonstration or related waivers. Coordinated regulation of these services may include, without limitation, such issues as restraint, charges for care, investigations and case management. Pursuant to these agreements, the department of developmental services may assume responsibility for the provision of these services to the department of mental health or the office of Medicaid. These agreements may delegate responsibility to the department of mental health to provide such services to the department of developmental services. These agreements may provide for the expenditure of appropriated funds consistent with such joint management service systems and may further provide for assignment of certain staff to such joint management service system. These agreements shall not, however, conflict with the department of developmental services' primary responsibility for persons with an intellectual disability regardless of whether those persons are also mentally ill or enrolled in the commonwealth's money follows the person demonstration or related waivers.

*Summary:*

This section authorizes EOHHS to enter into agreements with the Department of Disability Services so that DDS and EOHHS can jointly coordinate certain services that are provided for populations covered under the Money Follows the Person program and related Home and Community Based Waivers.

## **Section 7 - Adequate Revenues to Support Critical Investments**

### **SECTION 7.**

[Commonwealth Public Infrastructure Fund]

(A) Section 2ZZZ of chapter 29 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) (1) In addition to those revenues credited to the fund pursuant to subsection (a), there shall be credited to the fund all monies received by the commonwealth equal to the Commonwealth Transportation Fund Share of the receipts from sales, as defined by chapter 64H, and the Commonwealth Transportation Fund Share of the sales price of purchases, as defined by chapter 64I, from that portion of the taxes imposed under said chapters 64H and 64I as excises upon the sale and use at retail of tangible property or of services, and upon the storage, use or other consumption of tangible property, or of services, including interest thereon or penalties, but not including any portion of the taxes that constitute special receipts within the meaning of subsection (b½) of section 10 of chapter 152 of the acts of 1997.

(2) For the fiscal year beginning July 1, 2014, the Commonwealth Transportation Fund Share shall be 1.09 per cent; for the fiscal year beginning July 1, 2015, the Commonwealth Transportation Fund Share shall be 1.20 per cent; and beginning July 1, 2016, the Commonwealth Transportation Fund Share shall be 1.27 per cent.

(3) But if in a fiscal year the amount credited to the fund under this subsection is less than the Fund Minimum, then the comptroller shall transfer an amount from the General Fund to make up the difference between the amount credited to the fund and the Fund Minimum, not later than September 1 of the following fiscal year. For the fiscal year beginning July 1, 2014, the Fund Minimum shall be \$953,000,000; for the fiscal year beginning July 1, 2015, the Fund Minimum shall be \$1,082,000,000; for the fiscal year beginning July 1, 2016, the Fund Minimum shall be \$1,168,000,000; and beginning July 1, 2017, the Fund Minimum shall be the Fund Minimum from the previous fiscal year multiplied by the sum of 1 and the per cent change in the unadjusted consumer price index for all urban consumers for the Boston metropolitan area as determined by the Bureau of Labor Statistics of the United States Department of Labor for the preceding 12 months, as certified by the comptroller on March 1 of each year.

(B) Said chapter 29 of the General Laws is hereby amended by inserting after section 2GGGG the following section:-

Section 2HHHH. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Public Infrastructure Fund, which shall be used exclusively for financing public infrastructure.

(b) There shall be credited to the fund all monies received by the commonwealth from the taxes imposed under chapters 64H and 64I as excises upon the sale and use at retail of tangible property or of services, and upon the storage, use or other consumption of tangible property, or of services, including interest thereon or penalties, but not including any portion of the taxes that constitute special receipts within the meaning of

subsection (b1/2) of section 10 of chapter 152 of the acts of 1997.

(c) The comptroller shall transfer amounts credited to the fund immediately upon receipt and without encumbrance to the School Modernization and Reconstruction Trust Fund pursuant to section 35BB of chapter 10, to the Commonwealth Transportation Fund pursuant to section 2ZZZ of chapter 29, and to the Massachusetts Bay Transportation Authority State and Local Contribution Fund pursuant to section 35T of chapter 10. Notwithstanding subsection (a), the crediting of receipts to the fund shall not affect any obligation of the commonwealth related to notes issued by the Massachusetts Bay Transportation Authority, the School Building Authority, or the commonwealth, and the pledge of receipts from taxes imposed by chapters 64H and 64I to secure the payment of such notes under the circumstances described in the trust agreements relating to such notes is hereby ratified and confirmed in all respects and shall remain in full force and effect as long as any such notes remain outstanding in accordance with their terms and secured by pledged funds.

(d) Amounts in the fund after transfer pursuant to subsection (c) may be expended, subject to appropriation, for the expenses of the commonwealth, debt service or other obligations of the commonwealth, or for grants to municipalities and other public instrumentalities for design, construction, building, land acquisition, rehabilitation and other improvements to publicly-owned infrastructure including, but not limited to highways, streets, bridges, railways, mass transit, pedestrian and bicycle ways, airports, water treatment systems, wastewater systems, seaports, seawalls, breakwaters, dams, flood control systems, beach replenishment, parks, telecommunications systems, solid waste facilities, public education facilities, public health facilities, public housing, military and public safety facilities, and courts.

(C) Subsections (A) and (B) shall take effect on July 1, 2014.

[Repeal specific personal income tax expenditures]

(D) Paragraph (1) of subsection (a) of section 2 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following subparagraph:-

(J) (1) Amounts excluded under section 132(a)(5) of the Code. [Repeal of parking, T-pass and vanpool fringe benefits]

(2) Amounts excluded under section 121 of the Code. [Repeal of exemption of capital gains on home sales]

(3) Amounts paid by employers for premiums on accident and accidental death insurance and excluded under section 106(a) of the Code. [Repeal of exemption of employer-paid premiums on accident and accidental death insurance]

(4) Amounts paid for premiums on group-term life insurance and excluded under section 79 of the Code. [Repeal of exemption of employer-paid premiums on group-term life insurance]

(5) Amounts excluded as workers' compensation under section 104 of the Code. [Repeal of exemption of workers' compensation benefits. Note: This repeal would include Item 1.010 (workers' compensation benefits) excludable under section 104 of the Code.]

(6) Amounts excluded under section 129 of the Code. [Repeal of exemption of dependent care expenses]

(7) Qualified foster care payments excluded under section 131 of the Code. [Repeal of certain foster care payments]

(8) The rental value of parsonages or rental allowances excluded under section 107 of the Code. [Repeal of exemption of rental value of parsonages or rental allowances to clergy]

(9) Qualified scholarships, fellowships and tuition reductions excluded under section 117 of the Code. [Repeal of the exemption of scholarship and fellowships]

(10) Amounts excluded under section 74(b) and (c) of the Code. [Repeal of exemption of certain prizes and awards]

(11) Amounts excluded under section 126 of the Code. [Repeal of exemption of certain cost-sharing payments related to water and soil conservation projects]

(12) The value of meals or lodging excluded under section 119 of the Code. [Repeal of exemption of meals or lodging furnished for the convenience of the employer]

(13) Earnings of Health Savings Accounts exempted under section 223(e) of the Code. [Repeal of exemptions of Health Savings Accounts earnings]

(14) Amounts excluded under section 137 of the Code. [Repeal of exemption of employer-provided adoption assistance]

(15) Amounts excluded under section 127 of the Code. [Repeal of exemption of employer-provided education assistance]

(16) Amounts excluded under section 132(a)(7) of the Code. [Repeal of employer-provided qualified retirement planning services]

(17) Amounts excluded under section 132(a)(8) of the Code. [Repeal of exemption of payments under a Department of Defense Homeowners Assistance Plan]

(18) Amounts excluded under section 108(f)(4) of the Code. [Repeal of exemption of discharge of indebtedness income for healthcare professionals]

(19) Earnings of Archer Medical Savings Accounts exempted under section 220(e) of the Code. [Repeal of exemptions of Archer Medical Savings Accounts earnings]

(E) Paragraph (2) of said subsection (a) of said section 2 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (G). [Repeal of exemption of income from the sale, lease or transfer of certain patents]

(F) Paragraph (3) of said subsection (a) of said section 2 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (B). [This relates to the repeal of exemption of capital gains on home sales above]

(G) Subsection (c) of said section 2 of said chapter 62, as so appearing, is hereby amended by striking out paragraph (2), (3) and (4). [(2) and (4): Repeal of the allowance of a deduction of capital losses against interest and dividend income; (3): Repeal of the 50% deduction for gains on the sale of collectibles]

(H) Paragraph (1) of subsection (d) of said section 2 of said chapter 62, as so appearing, is hereby amended by adding the following subparagraph:-

(Q)(1) The deduction allowed for certain contributions under section 223(a) of the Code. [Disallowance of the deduction for contributions to Health Savings Accounts]

(2) The deduction allowed for certain contributions under section 220(a) of the Code. [Disallowance of the deduction for contributions to Archer Medical Savings Accounts]

(3) The deduction for costs allowed under section 62(a)(20) and (e) of the Code. [Disallowance of the deduction for costs involved in unlawful discrimination suits]

(4) The deduction for certain costs under sections 62(a)(14) and 179A of the Code. [Disallowance of certain deductions for clean-fuel vehicles and certain refueling property]

(5) The election to expense certain capital costs allowable under sections 175 and 180 of the Code. [Disallowance of election to expense certain capital costs of farmers]

(6) No deduction shall be allowed for meals or entertainment expenses that are subject to the 50% limitation under section 274(n) of the Code. [Complete disallowance of the deduction for business meals or entertainment for which the 50% limitation applies for federal income tax purposes]

(I) Paragraph (a) of Part A of section 3 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (2). [Repeal of the deduction from Part A income for income of trustees, executors, or administrators set aside for charitable purposes]

(J) Paragraph (a) of Part B of said section 3 of said chapter 62 is hereby amended by striking out subparagraphs (2), (3) and (4), as so appearing. [(2): Repeal of the deduction from Part B income for income of trustees, executors, or administrators set aside for charitable purposes] [(3): Repeal of the \$2,000 deduction for employee contributions to social security and railroad retirement] [(4): Repeal of the \$2,000 deduction for employee contributions to public pension plans]

(K) Said paragraph (a) of said Part B of said section 3 of said chapter 62 is hereby amended by striking out subparagraphs (6), (7) and (8), as so appearing. [(6): Repeal of the deduction for interest (up to \$100 per taxpayer) on savings in Massachusetts banks] [(7): Repeal of the deduction for business-related child care expenses] [(8): Repeal of the deduction for dependents under 12]

(L) Said paragraph (a) of said Part B of said section 3 of said chapter 62 is hereby amended by striking out subparagraph (11), as so appearing. [Repeal of deduction for tuition expenses]

(M) Said paragraph (a) of said Part B of said section 3 of said chapter 62 is hereby amended by striking out subparagraph (13), as so appearing. [Repeal of charitable contributions deduction]

(N) Said paragraph (a) of said Part B of said section 3 of said chapter 62 is hereby amended by striking out subparagraph (15), as so appearing. [Repeal of the commuter deduction]

(O) Paragraph (b) of said Part B of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (3) and inserting in place thereof the following subparagraph:- (3) An exemption of one thousand dollars for each individual who qualifies for exemption as a dependent under section one hundred and fifty-one (c) of the Code, except that no such exemption shall be allowed for a dependent who earns income in excess of \$1,000 in the taxable year, nor for a dependent student has attained the age of 19 years. [Repeal of dependents exemption for certain individuals who qualify as dependents under section 151(c) of the Code]

(P) Said paragraph (b) of said Part B of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (5). [Repeal of the deduction for adoption fees.]

(Q) Section 6 of said chapter 62, as so appearing, is hereby amended by striking out subsections (d) and (e). [(d): Repeal of the renewable energy source credit] [(e): Repeal of the lead paint credit]

(R) Said section 6 of said chapter 62, as so appearing, is hereby amended by striking out subsection (i). [Repeal of the septic system credit]

[Double the personal income tax exemption amounts]

(S) Subparagraph (1) of paragraph (b) of part B of section 3 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out clause (A) and inserting in place thereof the following clause:-

(A) a personal exemption of \$8,800 for tax years beginning on or after January 1, 2014.

(T) Subparagraph (1A) of said paragraph (b) of said part B of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out clause (A) and inserting in place thereof the following clause:-

(A) a personal exemption of \$13,600 for tax years beginning on or after January 1, 2014.

(U) Subparagraph (2) of said paragraph (b) of said part B of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out clause (A) and inserting in place thereof the following clause:-

(A) a personal exemption of \$17,600 for tax years beginning on or after January 1, 2014.

[Uniform income tax rate of 6.25%]

(V) Subsection (c) of section 2 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out paragraph (3).

(W) Said chapter 62 is hereby further amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. Residents shall be taxed on their taxable income, and non-residents shall be taxed to the extent specified in section 5A on their taxable income, as follows:

(a) Part A taxable income shall be taxed at the rate of 6.25 per cent for tax years beginning on or after January 1, 2014.

(b) Part B taxable income shall be taxed at the rate of 6.25 per cent for tax years beginning on or after January 1, 2014.

(c) Part C taxable income shall be taxed at the rate of 6.25 per cent for tax years beginning on or after January 1, 2014.

(X) Section 183 of chapter 184 of the acts of 2002, as amended by section 44 of chapter 300 of the acts of 2002, is hereby repealed.

[Index the gas tax ]

(Y) The definition of "Tax per gallon" in section 1 of chapter 64A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the first sentence and inserting in its place the following sentence: - "Tax per gallon", shall be 21 cents per gallon, adjusted at the beginning of each fiscal year, beginning by the percentage, if any, by which the Consumer Price Index for the preceding year exceeds the Consumer Price Index for the calendar year that ends before such preceding year. The Consumer Price Index for any calendar year is as defined in section 1 of the Internal Revenue Code.

(Z) Subsection (Y) shall take effect as of July 1, 2013.

[Extend the sales tax to computer and data processing services and custom software]

(AA) Section 1 of chapter 64H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of "Commissioner" the following definitions:

"Computer and data processing services," services that include but are not limited to programming, code writing, modification or testing of existing programs, feasibility studies and design and installation of computer systems that integrate computer hardware, software, and communication technologies, whether or not such services are rendered in connection with the development, creation or production of standardized or custom software, provision of access to software or the storage of data on the seller's or a third party's server including disaster recovery services, and bundled charges where the value of computer and data processing services is the predominant portion of the bundle and regardless of whether any report that is furnished or made available is unique to a particular customer. "Computer and data processing services" include provision of data or access to data that are sold together with a computer or data processing service, unless the purchase of the data or access to data is optional to the customer and the cost to the customer of the data or access to data is stated separately from any charge for computer or data processing service on the invoice provided to the customer at the time of purchase. Computer and data processing services do not include the provision of (1) downloaded books, music, videos or ringtones, or (2) computer facilities management services.

"Custom software," a software program prepared to the special order of a customer that is not standardized software, including modifications or enhancements to standardized software.

(BB) Said section 1 of said chapter 64H, as so appearing, is hereby amended by striking out, in line 240, the words "item: telecommunications services" and inserting in place thereof the following words:- items: telecommunications services, computer and data processing services.

(CC) Said section 1 of said chapter 64H, as so appearing, is hereby further amended by inserting after the word "standardized", in line 250, the following words:- or custom.

[Lower the sales/use tax rate to 4.5%]

(DD) Section 2 of chapter 64H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 3, the figure "6.25" and inserting in place thereof the following figure:- 4.5.

(EE) Section 2 of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the figure "6.25" and inserting in place thereof the following figure:- 4.5.

Tax security and utility corporations like other business corporations

(FF) Section 32B of chapter 63 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 60, the following words:- 38B or.

(GG) Sections 38B and 52A of said chapter 63 are hereby repealed.

(HH) Section 68C of said chapter 63, as appearing in the 2010 Official Edition, is hereby amended by striking out clauses (2) and (3).

[Modernize the sales factor for apportioning the corporate excise, by sourcing to where services are received]

(II) Paragraph (d) of section 2A of chapter 63 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subparagraph (xi) and inserting in place thereof the following subparagraph:-

(xi) The numerator of the receipts factor includes receipts from sales other than sales of tangible personal property not otherwise apportioned under this section to the extent that those receipts would be included in the numerator of a corporation's sales factor as determined pursuant to subsection (f) of section 38. For purposes of the receipts sourced pursuant to this subparagraph, subparagraph (xiii) of subsection (d) shall not apply.

(JJ) Section 38 of said chapter 63, as amended by section 31 of chapter 194 of the acts of 2011, is hereby amended by striking out subsection (f) and inserting in place thereof the following subsection:-

(f) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this commonwealth during the taxable year, and the denominator of which is the total sales of the corporation everywhere during the taxable year. As used in this subsection, unless specifically stated otherwise, "sales"



means all gross receipts of the corporation, including deemed receipts from transactions treated as sales or exchanges under the Code, except interest, dividends, and gross receipts from the maturity, redemption, sale, exchange or other disposition of securities, provided, however, that "sales" shall not include gross receipts from transactions or activities to the extent that a non-domiciliary state would be prohibited from taxing the income from such transactions or activities under the Constitution of the United States. Sales of tangible personal property are in this commonwealth if:-

1. the property is delivered or shipped to a purchaser within this commonwealth regardless of the f. o. b. point or other conditions of the sale; or
2. the corporation is not taxable in the state of the purchaser and the property was not sold by an agent or agencies chiefly situated at, connected with or sent out from premises for the transaction of business owned or rented by the corporation outside this commonwealth. "Purchaser", as used in clauses 1 and 2 of this paragraph, shall include the United States government.

Sales, other than sales of tangible personal property, are in this commonwealth if the corporation's market for the sale is in this commonwealth. The corporation's market for a sale is in the commonwealth and the sale is thus assigned to the commonwealth for the purpose of this section :-

1. in the case of sale, rental, lease or license of real property, if and to the extent the property is located in this commonwealth;
2. in the case of rental, lease or license of tangible personal property, if and to the extent the property is located in this commonwealth;
3. in the case of sale of a service, if and to the extent the service is delivered to a location in this commonwealth;
4. in the case of lease or license of intangible property, including a sale or exchange of such property where the receipts from the sale or exchange derive from payments that are contingent on the productivity, use, or disposition of the property, if and to the extent the intangible property is used in this commonwealth;
5. in the case of the sale of intangible property other than as referenced in clause 4. where the property sold is a contract right, government license or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, if and to the extent that the intangible property is used in or otherwise associated with this commonwealth; but any sale of intangible property, not otherwise described in this clause or clause 4 is excluded from the numerator and the denominator of the sales factor.

For the purposes of this subsection: (1) in the case of sales other than sales of tangible personal property if the state or states to which sales should be assigned cannot be determined, it shall be reasonably approximated; (2) in the case of sales other than sales of tangible personal property if the taxpayer is not taxable in a state to which a sale is assigned, or if the state or states to which such sales should be assigned cannot be determined or reasonably approximated, such sale shall be excluded from the numerator and denominator of the sales factor; (3) the corporation shall be considered to be taxable in the state of the purchaser if tangible personal property is delivered or shipped to a purchaser in a foreign country; (4) sales of tangible personal property to the United States government or any agency or instrumentality thereof for purposes of resale to a foreign government or any agency or instrumentality thereof are not sales made in the commonwealth; (5) in the case of the sale, exchange or other disposition of a capital asset, as defined in paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or business, including a deemed sale or exchange of such asset, "sales" are measured by the gain from the transaction; (6) "security" means any interest or instrument commonly treated as a security as well as other instruments which are customarily sold in the open market or on a recognized exchange, including, but not limited to, transferable shares of a beneficial interest in any corporation or other entity, bonds, debentures, notes, and other evidences of indebtedness, accounts receivable and notes receivable, cash and cash equivalents including foreign currencies, and repurchase and futures contracts; (7) in the case of a sale or deemed sale of a business, the term "sales" does not include receipts from the sale of the business "goodwill" or similar intangible value, including, without limitation, "going concern value" and "workforce in place"; (8) to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, a certified life sciences company may be deemed a research and development corporation for purposes of exemptions under chapters 64H and 64I; and (9) in the case of a business deriving receipts from operating a gaming establishment or otherwise deriving receipts from conducting a wagering business or activity, income-producing activity shall be considered to be performed in this commonwealth to the extent that the location of wagering transactions or activities that generated the receipts is in this commonwealth.

Notwithstanding the foregoing, mutual fund sales as defined in subsection (m), other than the sale of tangible personal property, shall be assigned to this commonwealth to the extent that shareholders of the regulated investment company are domiciled in this commonwealth as follows:

- (a) by multiplying the taxpayer's total dollar amount of sales of such services on behalf of each regulated investment company by a fraction, the numerator of which shall be the average of the number of shares owned

by the regulated investment company's shareholders domiciled in this commonwealth at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the taxpayer's taxable year, and the denominator of which shall be the average of the number of shares owned by the regulated investment company shareholders everywhere at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the taxpayer's taxable year.

(b) A separate computation shall be made to determine the sale for each regulated investment company, the sum of which shall equal the total sales assigned to the commonwealth.

The commissioner shall adopt regulations to implement this subsection. This subsection shall not affect the commissioner's authority under subsection (j).

(KK) The third paragraph of said subsection (f) of said section 38 of said chapter 63, as appearing in subsection (II), is hereby amended by striking out clause (8).

(LL) Subsection (KK) shall take effect on December 31, 2018.

(MM) Subsection (II) shall not restrict the authority of the commissioner of revenue under subsection (j) of section 38 of chapter 63 of the General Laws, and shall not affect the continuing validity or application of regulations that were previously adopted under subsection (f) of said section 38 of said chapter 63.

[Repeal the FAS 109 deduction]

(NN) Section 95 of chapter 173 of the acts of 2008 is hereby repealed.

[Revenue anticipation notes authorization]

(OO) To meet the expenditures authorized from the General Fund by this act and by any subsequent supplemental and deficiency appropriations acts for fiscal year 2014, or to retire notes issued for those purposes under section 47 of chapter 29 of the General Laws, the state treasurer shall, upon the request of the governor, issue and sell notes of the commonwealth, in an amount to be specified by the governor from time to time, but not exceeding in the aggregate the sum of \$400,000,000. All notes issued by the commonwealth under this section shall be designated on their face: Commonwealth Adequate Revenues for Critical Investments Loan Act of 2013, and shall be issued for a maximum term of years, not exceeding 2 years, as the governor may recommend to the general court under section 3 of article LXII of the Amendments to the Constitution. The notes shall be payable not later than June 30, 2016. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Notes and interest on them issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth. This section shall take effect as of July 1, 2013.

[Repeal the exemption of candy and soda from the sales tax.]

(PP) Section 1 of chapter 64H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of "Business" the following definition:-

"Candy", a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" shall not include any preparation containing flour and shall require no refrigeration.

(QQ) Said section 1 of said chapter 64H, as so appearing, is hereby further amended by inserting after the definition of "Services" the following definition:-

"Soft drinks", non-alcoholic beverages that contain natural or artificial sweeteners, but not including beverages that contain milk or milk products, soy, rice or similar milk substitutes, or vegetable or fruit juice.

(RR) Section 6 of said chapter 64H is hereby amended by striking out, in line 77, as so appearing, the words ", soft drinks".

(SS) Said section 6 of said chapter 64H is hereby further amended by striking out, in line 78, as so appearing, the words ", candy and confectionary".

(TT) Said section 6 of said chapter 64H is hereby further amended by inserting, after the word "include", in line 80, as so appearing, the following words:- soft drinks and candy, as defined in section 1,.

(UU) Said section 6 of said chapter 64H is hereby further amended by striking out, in lines 115 to 116, as so appearing, the words "in the instance in which it sells only snacks and candy with a sales price of less than \$3.50" and inserting in place thereof the following words:- to the extent that it sells food products with a sales price of less than \$3.50; provided further that candy and soft drinks as defined in section 1 are subject to tax regardless of whether the vending machine from which they are sold is considered an eating establishment or not.

(VV) Said section 6 of said chapter 64H is hereby further amended by inserting after the word "Beverages", in line 127, as so appearing, the following words:- , except soft drinks,.

[Increase the cigarette excise by \$1 to \$3.51 per pack, and increase other tobacco taxes (cigars, smokeless, roll-your-own, etc.) to reflect the previous and new cigarette excise increases.]

(WW) The first paragraph of section 6 of chapter 64C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:- Every licensee who is required to file a return under section 16 of chapter 62C shall, at the time of filing such return, pay to the commissioner an excise equal to 150 1/2 mills plus any amount by which the federal excise tax on cigarettes is less than 8 mills for each cigarette so sold during the calendar month covered by the return; but cigarettes with respect to which the excise under this section has once been imposed and has not been refunded, if paid, shall not be subject upon a subsequent sale to the excise imposed by this section. Each unclassified acquirer shall, at the time of filing a return required by section 16 of chapter 62C, pay to the commissioner an excise equal to 150 1/2 mills plus any amount by which the federal excise tax on cigarettes is less than 8 mills for each cigarette so imported or acquired and held for sale or consumption, and cigarettes, with respect to which such excise has been imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any further excise under this section.

(XX) Said section 6 of said chapter 64C, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-  
Notwithstanding the other provisions of this section, the excise imposed by this section shall equal 130 per cent of the price paid by such licensee or unclassified acquirer to purchase smokeless tobacco so sold, imported, or acquired.

(YY) Said chapter 64C is hereby further amended by inserting after said section 6 the following section: -  
Section 7 1/2. (a) As used in this section, the following words shall, unless the content clearly indicates otherwise, have the following meanings:-

"Counter," a device contained in, attached to, or forming part of, an RYO machine, performing in accordance with the manufacturer's specifications, that is designed to accurately count, and is accurately counting, the number of products rolled and wrapped by a machine.

"High volume machine," an RYO machine that is capable of rolling and wrapping tobacco into more than 10 products per minute.

"Low volume machine," an RYO machine that is not capable of rolling and wrapping tobacco into more than 10 products per minute.

"Product," a roll of tobacco or substance containing tobacco that is wrapped in any substance, including but not limited to paper or tobacco, in order to make the tobacco suitable for smoking. "Retailer," a retailer of cigarettes, cigars, smokeless tobacco, smoking tobacco or other tobacco products.

"RYO machine," a mechanical device, by whatever manufacturer made and by whatever name known, that is designed to roll and wrap tobacco into products.

(b) No retailer shall possess on its retail premises or otherwise make available to its retail customers, with or without a fee, an RYO machine, whether such RYO machine is owned by the retailer or another party, unless the retailer has first obtained a license under this section for each RYO machine that it so possesses or makes available. A retailer who possesses or otherwise makes available an RYO machine without first obtaining a license for the RYO machine under this section shall be subject to a civil penalty of not more than \$10,000 for the first offense and not more than \$25,000 for each subsequent offense, in the case of low volume machines, or a civil penalty of not more than \$50,000 for the first offense and \$100,000 for each subsequent offense, in the case of high volume machines. Any RYO machine on the retail premises of an unlicensed retailer or made available to the customers of an unlicensed retailer shall be subject to seizure or forfeiture under subsection (g), whether or not the RYO machine is owned by the unlicensed retailer.

(c) The commissioner may license a retailer to possess on its retail premises and make available to its customers 1 or more RYO machines, as specified by the license, if the commissioner determines that the

retailer is in good standing with regard to all state tax obligations for taxes subject to chapter 62C, and if the retailer pays the applicable fees before issuance of the license. Each license so issued or a copy of it shall be displayed on or immediately adjacent to the licensed RYO machine. Each license shall apply only to a specified retail location and a specified RYO machine, but a licensee may replace 1 high volume machine at a specific retail location with another high volume machine at that location or may replace 1 low volume machine at a specific retail location with another low volume machine at that location, upon prior written notice to the commissioner. The licensing of RYO machines is retained exclusively by the commonwealth, and no city, town or other political subdivision of the commonwealth may license such use.

(d) The fee for each license issued under this section shall be \$25,000 per calendar year for each high volume machine and \$5,000 per calendar year for each low volume machine. The fee shall not be pro-rated for any period less than a year. Each license shall expire automatically on December 31 of each year. The licensee must apply for a new license for the following year. Licenses shall not be transferable or assignable except as expressly provided in this section.

(e) The applicant for a license under this section shall file with the commissioner an application in the form that the commissioner requires, and shall pay the license fee with the application. The commissioner shall refund the fees paid, subject to any offsets as may be provided with respect to debts collectible under chapter 62C, to the extent that a requested license is not issued. The commissioner shall investigate the prior activities of the applicant and may deny the application for any of the reasons set forth in clauses (1) to (8), inclusive, of section 67. The commissioner shall grant or deny a license within 90 days after the date of application. If the commissioner fails to act within that time, the license shall be deemed denied. An applicant aggrieved by the refusal of the commissioner to grant a license may, within 60 days after the date of notice of the refusal or deemed denial, appeal to the appellate tax board, whose decision shall be final. Licenses shall be subject to suspension or revocation during a calendar year as provided in section 68.

(f) Every licensee shall keep and preserve suitable records relating to the licensee's purchase of the tobacco contained in a product, including the price and date of the purchase and the name of the vendor, and each such invoice must clearly indicate whether the excise due under section 7B has been paid by the licensee's vendor or will be paid by the licensee. Every licensee shall also provide access to its records, as prescribed by section 25 of chapter 62C and the regulations thereunder. For the purposes of this section, the term "records" shall include a counter. The commissioner shall revoke the license of any licensee who fails to maintain accurate records as provided in this section or who refuses to make its records available to the commissioner or the commissioner's designee.

(g) Any person who owns, leases, or is in control or possession of, and is determined by the commissioner to have, a faulty or inoperative counter or a machine without a counter, or who refuses to allow the commissioner or the commissioner's designee access to a counter and the data recorded by the counter, or who intentionally damages, tampers with, removes and does not replace, or renders sporadically or permanently inoperative, a counter, or who falsifies the data recorded by a counter, shall be punished by a fine of not more than \$50,000 or by imprisonment for not more than 1 year, or both.

(h) In addition to the other remedies provided by this section, the commissioner or the commissioner's designee or the state police may seize, seal, or otherwise render inoperative an RYO machine for which a required license has not been issued or where counters or records regarding a licensed RYO machine have not been maintained as required by this chapter or chapter 62C.

(i) It shall be unlawful for any person, whether located within or without the commonwealth, to sell, lease, loan, give, exchange, or otherwise transfer or deliver an RYO machine to a retailer unless the retailer has a license for that RYO machine.

(j) Nothing in this section shall apply to a person who owns, leases, or is in control or possession or control of a low volume machine that is used only for that person's personal use or to that low volume machine itself.

(ZZ) Section 7B of chapter 64C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the figure "30", in line 40, and inserting in place thereof the following figure:- 60.

(AAA) Every manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer, as defined in section 1 of chapter 64C of the General Laws, and every stamper appointed by the commissioner pursuant to section 30 of said chapter 64C, who, as of the commencement of business on August 1, 2013, has on hand any cigarettes for sale or any unused adhesive or meter stamps, shall make and file with the commissioner within 20 days a return, subscribed and sworn to under the penalties of perjury, showing a complete inventory of such cigarettes and stamps and shall, at the time he is required to file such return, pay an additional excise of 50 mills per cigarette on all cigarettes and all unused adhesive and meter stamps upon which an excise of only 100 1/2 mills has previously been paid. All provisions of chapter 62C and chapter 64C relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall

apply to the excise imposed by this section.

(BBB) All additional revenue resulting from the enactment of subsections (WW) to (AAA), inclusive, as estimated by the commissioner of revenue, shall be deposited in the General Fund

[Cap Film Tax Credit at \$40 million per fiscal year]

(CCC) Subsection (I) of section 6 of chapter 62 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(8) Notwithstanding any other provision of this section, the cumulative amount of credits allowed under this subsection together with section 38X of chapter 63 for all productions, shall not exceed \$40,000,000 for credits deemed attributable to any one fiscal year beginning with the fiscal year commencing on July 1, 2013.

(DDD) Section 38X of chapter 63 of the General Laws, inserted by section 82 of chapter 173 of the acts of 2008, is hereby amended by adding the following subsection:-

(g) Notwithstanding any other provision of this section, the cumulative amount of credits allowed under this section together with subsection (I) of section 6 of chapter 62 for all productions, shall not exceed \$40,000,000 for credits deemed attributable to any one fiscal year, beginning with the fiscal year that commences on July 1, 2013.

(EEE) In order to implement paragraph (8) of subsection (I) of section 6 of chapter 62 and subsection (g) of section 38X of chapter 63 of the General Laws, the department of revenue, in this section called the department, shall issue and implement rules or guidelines which may include but are not limited to the following:

(a) Any motion picture production company seeking a credit for a production that commences filming after January 23, 2013 shall file a production notice with the department, stating the amount of estimated expenses qualifying for the credit for the production and other information required by the department.

(b) Production notices received by the department on or after January 23, 2013 and before January 23, 2014 shall be considered to be attributable to fiscal year 2014 and shall reduce the available credit for fiscal year 2014, in the order in which they are received, by not more than the amount of the credit calculated with respect to the estimated qualifying expenses stated in the notices. Production notices received by the department in each subsequent 12 month period shall be considered to be attributable to each subsequent fiscal year and shall reduce the available credit for that fiscal year, in the order in which they are received, by not more than the amount of the credit calculated with respect to the estimated qualifying expenses stated in the notices.

(c) A production company shall not be allowed a credit for a production commencing filming after January 23, 2013 unless filming commences within 90 days after the department has responded favorably to the notice and any credit shall not be allowed in excess of the amount of credit calculated with respect to the estimated qualifying expenses stated in the notice. A production company that does not commence filming within the required 90 day period will not be allowed a credit for that production and the credit otherwise attributable to that production will be available to other productions subject to the notice procedures and credit limits contained in this subsection (C).

(d) All productions commencing filming after January 23, 2013 are subject to the notice procedures and credit limits provided in this subsection (C) and shall not qualify for any credit under subsection (I) of section 6 of chapter 62 or section 38X of chapter 63 of the General Laws in any fiscal year except as allowed through those notice procedures and subject to those credit limits.

(e) Credit certificates issued by the department that are attributed to a particular fiscal year under this section will reduce the available credits for such year regardless of the production dates to which those credit certificates relate.

(FFF) Subsections (CCC) to (EEE) shall take effect upon passage.

[Effective date]

(GGG) Except as otherwise provided, this section shall take effect on January 1, 2014 and shall be effective for tax years beginning on or after January 1, 2014.

*Summary:*

This section provides adequate revenues to support critical investments, effective January 1, 2014, by:

- \* Changing the income tax rate to a uniform 6.25%;
- \* Doubling the personal income exemption amounts;
- \* Repealing numerous specific personal income tax expenditures;
- \* Lowering the sales/use tax rate to 4.5%;
- \* Extending the sales tax to computer and data processing services and custom software;
- \* Establishing the Commonwealth Public Infrastructure Fund to expend sales tax revenues exclusively for financing public infrastructure;
- \* Indexing the gas tax;
- \* Taxing security and utility corporations like other business corporations;
- \* Modernizing the sales factor for apportioning the corporate excise, by sourcing to where services are received;
- \* Repealing the FAS 109 deduction.
- \* Capping the film tax credit at \$40 million per fiscal year.
- \* Repealing the exemption of candy and soda from the sales tax.
- \* Increasing the cigarette excise by \$1 to \$3.51 per pack, and increasing other tobacco taxes (cigars, smokeless, roll-your-own, etc.) to reflect the previous and new cigarette excise increases.

## **Section 8 - Eliminate Statutory Carry-Forward**

### **SECTION 8.**

Chapter 29 of the General Laws is hereby amended by striking out section 5C and inserting in place thereof the following section:-

Section 5C. The comptroller shall annually, on or before October 31, certify to the secretary of administration and finance the amount of the consolidated net surplus in the budgetary funds at the close of the preceding fiscal year. Except as otherwise provided by law, the amounts so certified shall be transferred to the Stabilization Fund. This transfer shall be made from the undesignated fund balances in the budgetary funds proportionally from those undesignated fund balances, but no such transfer shall cause a deficit in any of those funds. Before certifying the consolidated net surplus in accordance with this section, the comptroller shall, to the extent possible, eliminate deficits in any fund contributing to the surplus by transferring positive fund balances from any other fund contributing to the surplus.

*Summary:*

This section repeals the law that requires 0.5% of tax revenues to be carried forward to the next fiscal year, and another 0.5% to be deposited in the Stabilization Fund.

## **Section 9 - Annual Formula Local Aid**

### **SECTION 9.**

(A) Chapter 58 of the General Laws is hereby amended by inserting after section 18B the following section:-

Section 18B½. (a) As used in this section, the following words shall have the following meanings:-

"Equalizing factor", the sum of the income ratio and property wealth ratio for the city or town multiplied by \$10.

"Income ratio", the per capita income of the commonwealth divided by the per capita income of the city or town, as most recently determined by the department of revenue.

"Population", the population of the city or town, as most recently estimated by the United States Bureau of the

Census.

"Property wealth ratio", the statewide average equalized valuation per capita divided by the equalized property valuation per capita for the city or town, as most recently reported by the commissioner of revenue to the general court under section 10C.

(b) Subject to appropriation, each city or town shall receive annual formula local aid from the commonwealth. The funds appropriated for this aid in any fiscal year shall be apportioned among the cities and towns by multiplying the equalizing factor for the city or town by the population for the city or town.

(c) Beginning in fiscal year 2015, an amount equal to 25 percent of annual formula local aid under this section shall be transferred to a reserve account for a program of incentive aid for municipalities. The incentive aid program will reward municipalities for meeting incentives focused on strong fiscal management, municipal health care cost management, and local government performance management. The secretary of administrative and finance shall adopt regulations establishing administrative procedures for the incentive aid program, including identifying the specific incentive requirements and a formula for distributing incentive funds to eligible municipalities.

(B) Section 18C of said chapter 58, as appearing in section 116 of chapter 165 of the acts of 2012, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) In this section, "budgeted aid" shall mean unrestricted aid to cities and towns, including proceeds from the state lottery established under chapter 10, payments in lieu of taxes from the commonwealth to cities and towns under section 17, education aid to cities and towns under chapter 70, and annual formula local aid under section 18B½.

(C) Section 2 of chapter 70 of the General Laws is hereby amended by striking out the definition of "General revenue sharing aid", as amended by section 33 of chapter 194 of the acts of 2011, and inserting in place thereof the following definition:-

"General revenue sharing aid", the amount of assistance from the commonwealth to be received by a city or town in a fiscal year from the following local aid programs: (1) payments in lieu of taxes for state-owned lands distributed under section 17 of chapter 58, (2) equity aid as defined in this section, (3) the distribution to cities and towns of the balance of the State Lottery and Gaming Fund in accordance with clause (c) of section 35 of chapter 10, and (4) annual formula local aid distributed under section 18B½ of chapter 58.

#### *Summary:*

This section enacts a new formula for distributing supplemental aid to cities and towns, known as "Annual Formula Local Aid". Beginning in fiscal year 2015, 25 percent of the appropriated amount will fund an incentive aid program promoting strong fiscal management, municipal health care cost management, and local government performance management.

## **Section 10 - Chapter 70 Minimum Local Contribution Waiver**

### **SECTION 10.**

Chapter 70 of the General Laws is hereby amended by inserting after section 6 the following section:-

Section 6A. (a) Notwithstanding any general or special law to the contrary, upon the request of the board of selectmen in a town, the city council in a city with a plan E form of government or the mayor in any other city, within any fiscal year, the department of revenue may recalculate the minimum required local contribution for that year, as defined in section 2. Based on the criteria established in this section, the department of revenue shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of elementary and secondary education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which are not available for use in the next fiscal year or that shall be required to use revenues for extraordinary non-school-related expenses for which it did not have to use revenues in the preceding fiscal year or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor may appeal to the department of revenue not later than October 1, for an adjustment of its minimum required local contribution and net school spending for that fiscal year.

(c) If an appeal is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year in which the waiver is granted, shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If upon submission of adequate documentation, the department of revenue determines that a municipality's appeal regarding an excessive municipal revenue growth factor is valid, the department of revenue shall recalculate the municipal revenue growth factor and the department of elementary and secondary education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall constitute a permanent reduction in the minimum required local contribution.

(e) The board of selectmen in a town, the city council in a city with a plan E form of government, the mayor in any other city, or a majority of the member municipalities of a regional school district which used qualifying revenue amounts in a fiscal year that are not available for use in the next fiscal year may appeal to the department of revenue not later than October 1, for an adjustment to its net school spending requirement for that fiscal year. If an appeal is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) If the regional school budget has already been adopted by two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of elementary and secondary education in accordance with this section.

(g) Notwithstanding clause (14) of section 3 of chapter 214 or any other general or special law to the contrary, the amounts determined pursuant to this section shall be the minimum required local contribution described in this chapter. The department of revenue and the department of elementary and secondary education shall notify the house and senate committees on ways and means and the joint committee on education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided in this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized by this section.

(i) The amount of financial assistance due from the commonwealth in any fiscal year pursuant to this chapter or any other law shall not be changed on account of any redetermination of the minimum required local contribution pursuant to this section.

(j) The department of revenue and the department of elementary and secondary education shall issue guidelines to implement their respective duties pursuant to this section.

*Summary:*

This section codifies usual budgetary language that establish procedures for appeals and waivers of minimum local contributions toward public school funding.



## Section 11 - Expand Bottle Bill

### SECTION 11.

Section 321 of chapter 94 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the definitions of "Beverage" and "Beverage container" and inserting in place thereof the following 2 definitions:-

"Beverage", soda water or similar carbonated soft drinks; beer and other malt beverages; non-carbonated soft drinks including but not limited to mineral water, flavored and unflavored water, spring water, fruit drinks, juice, sports drinks and other water beverages, coffee and coffee-based drinks; and all other non-alcoholic carbonated and noncarbonated drinks in liquid form intended for human consumption except milk and beverages that are primarily derived from dairy products, infant formula, and FDA-approved medicines; but shall not include alcoholic beverages other than beer and malt beverages as defined in chapter 138 or wine.

"Beverage container", any sealable bottle, can, jar or carton which is primarily composed of glass, metal, plastic or any combination of those materials and is produced for the purpose of containing a beverage, including containers of 2 gallons capacity or less for carbonated and malt beverages and less than 1 gallon for noncarbonated beverages. This definition shall not include containers made of biodegradable material.

#### *Summary:*

This section expands the state's bottle deposit law to include containers for non-carbonated drinks like water, juices, coffee-based drinks and sport drinks.

## Section 12 - Health Safety Net Assessments

### SECTION 12.

(A) The definition of "Managed care organization" in section 64 of chapter 118E of the General Laws, as appearing in section 131 of chapter 224 of the acts of 2012, is hereby amended by inserting after the words "section 9D" the following words:- or an integrated care organization, as defined in section 9F.

(B) Clause (1) of the definition of "Payments subject to surcharge" in section 64 of said chapter 118E, as so appearing, is hereby amended by inserting after the words "age 65" the following words:- who are not enrolled in an ICO.

(C) Said definition of "Payments subject to surcharge" in said section 64 of said chapter 118E, as so appearing, is hereby further amended by striking out the word "division" and inserting in place thereof the following words:- executive office.

(D) Said section 64 of said chapter 118E, as so appearing, is hereby further amended by inserting the following 2 definitions after the definition of "Surcharge payor":-

"Total acute hospital assessment amount", an amount equal to \$160,000,000 plus 50 per cent of the estimated cost, as determined by the executive office, of administering the health safety net and related assessments in accordance with sections 65 to 69, inclusive.

"Total surcharge amount", an amount equal to \$160,000,000 plus 50 per cent of the estimated cost, as determined by the executive office, of administering the health safety net and related assessments in accordance with sections 65 to 69, inclusive.

(E) Said chapter 118E is hereby further amended by striking out section 66 and inserting in place thereof the following section:-

Section 66. (a) There shall be established and set up on the books of the commonwealth a fund to be known

as the Health Safety Net Trust Fund, in this section and in sections 67 to 69, inclusive, called the fund, which shall be administered by the office. Expenditures from the fund shall not be subject to appropriation unless otherwise required by law. The purposes of the fund shall be: (i) to maintain a health care safety net by reimbursing hospitals and community health centers for a portion of the cost of reimbursable health services provided to low-income, uninsured or underinsured residents; (ii) to support the estimated expenses of the executive office in administering the health safety net and related assessments in accordance with sections 65 to 69, inclusive; and (iii) to support a portion of the costs of the Medicaid program under this chapter and the commonwealth care health insurance program under chapter 118H. The office shall administer the fund using methods, policies, procedures, standards and criteria for the proper and efficient operation of the fund and programs funded by it in a manner designed to distribute the fund resources as equitably as possible. The secretary of administration and finance, , in consultation with the secretary of health and human services, shall determine annually the estimated expenses to administer the fund.

(b) The fund shall consist of all amounts paid by acute hospitals and surcharge payors under sections 67 and 68; all appropriations for the purpose of payments to acute hospitals or community health centers for health services provided to uninsured and underinsured residents; any transfers from the Commonwealth Care Trust Fund, established under section 2000 of chapter 29; and all property and securities acquired by and through the use of monies belonging to the fund and all interest thereon. The office shall expend amounts in the fund, except for amounts transferred to the Commonwealth Care Trust Fund, for payments to hospitals and community health centers for reimbursable health services provided to uninsured and underinsured residents of the commonwealth, consistent with the requirements of this section and section 69 and the regulations adopted by the office. The office shall also expend annually for the fund the expenses of the executive office, including the health safety net office under subsection (a). The office shall also expend not more than \$6,000,000 annually from the fund for demonstration projects that use case management and other methods to reduce the liability of the fund to acute hospitals. Any amounts collected from surcharge payors in any year in excess of the total surcharge amount, adjusted to reflect applicable surcharge credits, shall be transferred to the General Fund to support a portion of the costs of the Medicaid and commonwealth care health insurance programs. Any annual balance remaining in the fund after these payments have been made shall be transferred to the Commonwealth Care Trust Fund. All interest earned on the amounts in the fund shall be deposited or retained in the fund. The director shall from time to time requisition from the fund amounts that the director considers necessary to meet the current obligations of the office for the purposes of the fund and estimated obligations for a reasonable future period.

(F) The first sentence of subsection (a) of section 67 of said chapter 118E, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:- the total acute hospital assessment amount.

(G) The fourth sentence of subsection (a) of section 68 of said chapter 118E, as so appearing, is hereby amended by striking out the figure "\$160,000,000" and inserting in place thereof the following words:- the total surcharge amount.

(H) The fifth sentence of said subsection (a) of said section 68 of said chapter 118E, as so appearing, is hereby amended by striking out the words "less than \$150,000,000 or more than \$170,000,000 in surcharge payments," and inserting in place thereof the following words:- less than the total surcharge amount minus \$10,000,000, or more than the total surcharge amount plus \$10,000,000.

*Summary:*

This section authorizes EOHHS to assess hospitals and insurers, as part of the Health Safety Net assessment, for the costs of administering the Health Safety Net and related assessments. This section also clarifies that integrated care organizations, and services provided to their enrollees, are not subject to the Health Safety Net payor surcharge.

## **Section 13 - Construction and Disposition of Certain Public Housing Units**

### **SECTION 13.**

(A) Section 26 of chapter 121B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following clause:

(p) Notwithstanding anything to the contrary in this section or section 34, to dispose of or demolish any part or all of an existing housing project assisted by the commonwealth pursuant to chapter 689 of the acts of 1974, chapter 167 of the acts of 1987 or chapter 705 of the acts of 1966, if:

(1) the department and the housing authority have determined that it is not financially feasible to bring the units up to a reasonable program standard for occupancy or permissible to convert the units to another low rent housing program; and

(2) for units financed pursuant to chapter 705 of the acts of 1966, the units were vacant as of November 1, 2012, or, for units financed by the chapter 689 of the acts of 1974 or chapter 167 of the acts of 1987, the department has received written confirmation from both the department of developmental services and the department of mental health that those units are obsolete and inappropriate for housing their respective clients. Upon approval by the department, the housing authority may dispose of the property by sale, ground lease or other transfer of its interest in the property, but the department must review and approve of any appraisal and request for proposals related to the disposition, as well as the selection of the selected bidder. The request for proposals shall provide that:

(i) in reviewing responses to the request for proposals, first priority for selecting from among the responsive and responsible bidders shall be those bidders that offer a feasible plan to provide housing on the site that is permanently affordable to households under 80 per cent of area median income as defined by the department. Those bidders shall obtain the property for one dollar, subject to an enforceable agreement to meet the requirements of its proposal; and,

(ii) if no responsive and responsible bidder meets the above standard, the property shall be sold to the bidder offering the highest price for the property.

Notwithstanding anything to the contrary in this chapter, proceeds from the disposition, after paying for the costs of the disposition, shall be deposited in an expendable trust controlled by the department, the purpose of which shall be to fund capital improvements that the department determines are necessary and appropriate at existing housing developments that serve households that would have been eligible for occupancy of the units that had been sited on the property.

(B) Subsection (b) of section 31 of said chapter 121B, as so appearing, is hereby amended by repealing the language appearing at lines 25 through 35 and inserting in place thereof the following words:- approve such a project only if it makes the following determinations: (i) the design and layout of the proposed project is appropriate to the neighborhood in which it is to be located; and (ii) an.

#### *Summary:*

This section:

(A) provides a very narrow exception to the present replacement housing requirements and will affect approximately 75 units of state-assisted public housing. The language permits the demolition or sale of (a) "chapter 705" scattered site family units that are vacant as of November 1, 2012 and for which rehab is not a feasible alternative, and (b) "chapter 167 and chapter 667" units that are dedicated to DDS and DMH clients if those agencies determine that the units are obsolete and inappropriate for their clients. DHCD will oversee disposition of any real estate interest and the dedication of any net sales proceeds to the capital needs of similar housing; and

(B) eliminates the ban on creating new public housing on sites with 100 units or more than 100 units within an eighth of a mile of each other.

## **Section 14 - Housing Preservation and Stabilization Trust Fund**

### **SECTION 14.**

Chapter 121B of the General Laws is hereby amended by adding the following section:-

Section 60. (a) There is hereby established the Housing Preservation and Stabilization Trust Fund, in this section called the fund, to be administered by the undersecretary of housing and community development, in this section called the undersecretary. Monies in the fund shall be deposited with the state treasurer in a manner that will secure the highest interest rate available consistent with safety of the fund and with the requirement that all amounts on deposit be available for immediate use.

- (b) The undersecretary shall appoint the fund's trustee, who shall serve until a successor is appointed.
- (c) There shall be credited to the fund (1) any unexpended funds from items 7004-0100, 7004-0101, 7004-0108, 7004-9024 and 7004-9316, which shall not revert to the General Fund, but instead be deposited in the fund, (2) other funds appropriated or transferred by the general court; and (3) all interest earned on monies in the fund.
- (d) Expenditures from the fund shall not be subject to appropriation, and balances remaining at the end of a fiscal year shall not revert to the General Fund. Expenditures from the fund shall be made only for providing affordable housing for low-income families and individuals in the commonwealth, particularly those most at-risk of becoming homeless.
- (e) Before making expenditures from the fund, each fiscal year the undersecretary shall submit a spending plan to the secretary of administration and finance. Spending from the fund shall be subject to the approval of the secretary of administration and finance. For the purpose of accommodating discrepancies between the receipt of revenues and related expenditures, the undersecretary may incur obligations and the comptroller may certify payment amounts not to exceed the most recent revenue estimate submitted by the undersecretary and approved by the secretary of administration and finance, but the fund shall be in balance by the close of each fiscal year.
- (f) The undersecretary shall determine eligibility and benefit levels for programs supported by the fund, but programs shall be structured in a sustainable manner.
- (g) Eligible grantees of the fund include but are not limited to: local housing agencies, regional housing centers, private housing providers of affordable housing, other state agencies, and municipalities.

*Summary:*

This section establishes a Housing Preservation and Stabilization Trust Fund as a flexible method for funding affordable housing for low-income families and individuals in the commonwealth, particularly those most at-risk of becoming homeless.

## **Section 15 - Extend Authority to Terminate and Renegotiate Leases**

**SECTION 15.**

(A) Section 23 of chapter 5 of the acts of 2009 is hereby amended by striking out the figure "2013", inserted by section 143 of chapter 139 of the acts of 2012, and inserting in place thereof the following figure:- 2014.

(B) Section 195 of chapter 131 of the acts of 2010 is hereby amended by striking out the figure "2013", inserted by section 146 of said chapter 139, and inserting in place thereof the following figure:- 2014.

*Summary:*

This section extends through fiscal year 2014 the present legislative authorization for DCAMM to terminate state agency and court facility leases for insufficient funding, and to realize operating budget cost savings by renegotiating lease terms in return for extending lease terms to as much as a total of 15 years.

## **Section 16 - Allow Medical Security Trust Fund Deficit for Fiscal Year 2014**

**SECTION 16.**

Section 124 of chapter 359 of the acts of 2010 is hereby amended by striking out the words "and June 30, 2013", inserted by section 147 of chapter 139 of the acts of 2012, and inserting in place thereof the following words:- , June 30, 2013 and June 30, 2014.

*Summary:*

This section extends the law allowing the Medical Security Trust Fund to be in deficit at the close of fiscal years

2010 to 2013, to apply also to fiscal year 2014.

## **Section 17 - Extend Substance Abuse Services Fund**

### **SECTION 17.**

The last sentence of section 94 of chapter 142 of the acts of 2011 is hereby amended by striking out the figure "2013" and inserting in place thereof the following figure:- 2014.

#### *Summary:*

This section extends the Substance Abuse Services Fund until June 30, 2014.

## **Section 18 - Expenditures from Fiscal Year 2013 Surplus**

### **SECTION 18.**

Chapter 139 of the acts of 2012 is hereby amended by striking out section 155 and inserting in place thereof the following section:-

Section 155. (a) Notwithstanding any general or special law to the contrary, the comptroller shall dispose of the consolidated net surplus in the budgetary funds for fiscal year 2013 in the following order to the extent that funds are available: (1) transfer \$25,000,000 to the Massachusetts Community Preservation Trust Fund, established by section 9 of chapter 44B of the General Laws; (2) transfer \$20,000,000 to the Housing Preservation and Stabilization Trust Fund, established by section 60 of chapter 121B of the General Laws; and (3) transfer the remaining balance to the Commonwealth Stabilization Fund.

(b) All transfers pursuant to this section shall be made from the undesignated fund balances in the budgetary funds proportionally from the undesignated fund balances; but no such transfer shall cause a deficit in any of the funds.

#### *Summary:*

This section distributes any surplus at the end of fiscal year 2013 in the following order, to the extent that funds are available: \*\$25 million to the Community Preservation Trust Fund; \*\$20 million to the new Housing Preservation and Stabilization Trust Fund; and \* the remaining balance to the Commonwealth Stabilization Fund.

## **Section 19 - Inspector General's Audits of Health Safety Net and MassHealth Program**

### **SECTION 19.**

Notwithstanding any general or special law to the contrary, in hospital fiscal year 2014, the office of the inspector general may continue to expend funds from the Health Safety Net Trust Fund, established by section 36 of chapter 118G of the General Laws:

(a) to conduct a study and review of the MassHealth program. The study shall include, but not be limited to, a review of the program's eligibility requirements, utilization, claims administration and compliance with federal mandates. The inspector general shall report any preliminary findings to the secretary of health and human services and the house and senate committees on ways and means on or before October 30, 2013, and issue a final report on or before March 1, 2014; and

(b) for costs associated with maintaining a pool audit unit within the office. The unit shall continue to oversee and examine the practices in all hospitals including, but not limited to, the care of the uninsured and the resulting free charges. The inspector general shall submit a report to the house and senate committees on ways and means on the results of the audits and any other completed analyses not later than March 1, 2014. For the purposes of these audits, allowable free care services shall be defined pursuant to said chapter 118G and any regulations adopted under that chapter.

*Summary:*

This section allows the Inspector General's Office to continue to audit the Health Safety Net Trust Fund and the MassHealth program.

**Section 20 - Extend Authorization to Transfer Trust Balances**

**SECTION 20.**

Notwithstanding any general or special law to the contrary, upon receiving a written request from the secretary of administration and finance, the comptroller shall transfer to the General Fund all or part of the unexpended balance of a fund, trust fund or other separate account, in existence on April 1, 2013, whether established administratively or by law, including a separate account established under section 6 of chapter 6A of the General Laws or section 4F of chapter 7 of the General Laws. The secretary and comptroller shall report to the house and senate committees on ways and means 45 days before any such transfer. The request shall certify that the secretary, in consultation with the comptroller, has determined that this balance, or the specified part of it, is not to be necessary for the purposes for which it was made available.

*Summary:*

This section extends to fiscal year 2014 authorizations in the fiscal year 2011, 2012, and 2013 budgets to transfer to the General Fund certain trust and account balances, and now allows all or part of these balances to be transferred.

**Section 21 - Funding for Payments to Certain Health Providers**

**SECTION 21.**

Notwithstanding any general or special law to the contrary, the health policy commission shall enter into an interagency agreement with the executive office of health and human services to provide up to \$20,000,000 in available funding from the Healthcare Payment Reform Trust Fund, established by section 100 of chapter 194 of the acts of 2011, during fiscal year 2014, for payments required by section 262 of chapter 224 of the acts of 2012. The comptroller shall deposit in this fund all federal reimbursements paid to the commonwealth as a result of these payments.

*Summary:*

To implement a provision of the 2012 health care cost containment law, this section provides up to \$20 million from the Healthcare Payment Reform Trust Fund, for certain health care providers that adopt alternative payment methodologies.

**Section 22 - Initial Gross Payments to Qualifying Acute Care Hospitals**

**SECTION 22.**

Notwithstanding any general or special law to the contrary, on or before October 1, 2013 and without further appropriation, the comptroller shall transfer from the General Fund to the Health Safety Net Trust Fund established pursuant to section 66 of chapter 118E of the General Laws, in this section called the fund, the greater of \$45,000,000 or one-twelfth of the total expenditures to hospitals and community health centers required pursuant to this act, for the purposes of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2013. These payments shall be made to hospitals before, and in anticipation of, the payment by hospitals of their gross liability to the fund. The comptroller shall transfer from the fund to the General Fund, not later than June 30, 2014, the amount of the transfer authorized

by this section and any allocation of that amount as certified by the director of the health safety net office.

*Summary:*

This section provides for the annual transfer from the General Fund of "seed money" to make initial gross payments to acute hospitals. This seed money is later repaid to the General Fund.

## **Section 23 - MassHealth and CommCare Dental Coverage**

### **SECTION 23.**

(a) Notwithstanding section 53 of chapter 118E of the General Laws, until December 31, 2013, the executive office of health and human services may determine the extent to which to include within its covered services for adults the federally optional dental services that were included in its state plan or demonstration program in effect on January 1, 2002 and the dental services that were covered for adults in the MassHealth basic program as of January 1, 2002.

(b) Notwithstanding subsection (a) of section 6 of chapter 118H of the General Laws, until December 31, 2013, medically necessary dental services covered through health insurance plans procured by the board of the Commonwealth Health Insurance Connector Authority for any resident with a household income that does not exceed 100 per cent of the federal poverty level shall include preventative procedures but shall exclude those categories of services that are not provided through MassHealth.

*Summary:*

Until December 31, 2013 only, this section gives EOHHS and the Commonwealth Health Connector Authority board the necessary discretion to make MassHealth and Commonwealth Care dental coverage or service limitation decisions.

## **Section 24 - Nursing and Resident Care Facility Base Year**

### **SECTION 24.**

Notwithstanding any general or special law to the contrary, nursing facility and resident care facility rates effective July 1, 2013 under section 13D of chapter 118E of the General Laws may be developed using the costs of calendar year 2005.

*Summary:*

This section changes to 2005 the base year for setting fiscal year 2014 nursing and resident care facility rates.

## **Section 25 - Pension Cost of Living Adjustment**

### **SECTION 25.**

Notwithstanding any general or special law to the contrary, the amounts transferred pursuant to subdivision (1) of section 22C of chapter 32 of the General Laws shall be made available for the commonwealth's Pension Liability Fund established by section 22 of said chapter 32. The amounts transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 shall meet the commonwealth's obligations pursuant to said section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, for the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102 of said chapter 32 and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. The state board of retirement and each city, town,

county and district shall verify these costs, subject to the rules adopted by the state treasurer. The state treasurer may make payments upon a transfer of funds to reimburse certain cities and towns for pensions to retired teachers, including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and also including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32. All payments for the purposes described in this section shall be made only pursuant to distribution of monies from the fund, and any distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the secretary of the executive office for administration and finance with the house and senate committees on ways and means and the joint committee on public service in advance of this distribution. Distributions shall not be made in advance of the date on which a payment is actually to be made. The state board of retirement may expend an amount for the purposes of the board of higher education's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund, established by subdivision (8) of section 22 of said chapter 32, for the purpose of reducing the unfunded pension liability of the commonwealth.

*Summary:*

This section provides for a 3% increase on the first \$13,000 in pension benefits for retired state employees. The section is included each year in the budget.

## **Section 26 - Stabilization Fund Transfers**

**SECTION 26.**

(a) Notwithstanding any general or special law to the contrary, the comptroller shall, on or before June 30, 2014, transfer \$400,000,000 to the General Fund from the Commonwealth Stabilization Fund, but the comptroller shall instead transfer a lesser amount if the secretary of administration and finance so requests in writing. The comptroller, in consultation with the secretary of administration and finance, may take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds. The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the house and senate committees on ways and means.

(b) Notwithstanding any general or special law to the contrary, the comptroller shall, not later than June 30, 2014, transfer the interest earned from the Commonwealth Stabilization Fund during fiscal year 2014 to the General Fund

*Summary:*

This section transfers \$400 million to the General Fund from the Commonwealth Stabilization Fund, but allows the Secretary of Administration and Finance to reduce the amount transferred. It also transfers interest on the Stabilization Fund during fiscal year 2014 to the General Fund.

## **Section 27 - Suspension of Tourism Formula**

**SECTION 27.**

Notwithstanding any general or special law to the contrary, the formula for application of funds provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2014.

*Summary:*

This section suspends the statutory tourism fund formula for fiscal year 2014. This section has been routine in



recent budgets.

## **Section 28 - UMass/Health and Human Services Interagency Service Agreements**

### **SECTION 28.**

Notwithstanding any general or special law to the contrary, the executive office of health and human services, acting in its capacity as the single state agency under Title XIX of the Social Security Act and as the principal agency for all of the agencies within the executive office and other federally-assisted programs administered by the executive office, may enter into interdepartmental services agreements with the University of Massachusetts Medical School to perform activities that the secretary of health and human services, in consultation with the comptroller, determines appropriate and within the scope of the proper administration of said Title XIX and other federal funding provisions to support the programs and activities of the executive office. The activities may include: (1) providing administrative services including, but not limited to, providing the medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case management activities and similar initiatives; (2) providing consulting services related to quality assurance, program evaluation and development, integrity and soundness and project management; and (3) providing activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third-party liability and recouping payments to third parties. Federal reimbursement for any expenditures made by the University of Massachusetts Medical School relative to federally-reimbursable services the University provides under these interdepartmental service agreements or other contracts with the executive office shall be distributed to the University and recorded distinctly in the state accounting system. The secretary may negotiate contingency fees for activities and services related to pursuing federal reimbursement or avoiding costs and the comptroller shall certify these fees and pay them upon the receipt of this revenue, reimbursement or demonstration of costs avoided. Contracts for contingency fees shall not exceed 3 years and shall not be renewed without prior review and approval by the executive office for administration and finance. The secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2014; but contingency fees paid to the University of Massachusetts Medical School under an interagency service agreement for recoveries related to the special disability workload projects shall be excluded from that \$40,000,000 limit for fiscal year 2014. The secretary of health and human services shall submit to the secretary of administration and finance and the senate and house committees on ways and means a quarterly report detailing the amounts of the agreements, the ongoing and new projects undertaken by the University, the amounts expended on personnel and the amounts of federal reimbursement and recoupment payments that the University collected.

#### *Summary:*

This section enables the Executive Office of Health and Human Services to contract services to the University of Massachusetts to perform them in the most cost-efficient manner.

## **Section 29 - Nursing Facility Assessment**

### **SECTION 29.**

Notwithstanding any general or special law to the contrary, the nursing home assessment established by subsection (b) of section 63 of chapter 118E of the General Laws shall be sufficient in the aggregate to generate \$220,000,000 in fiscal year 2014.

#### *Summary:*

This section establishes the amount of revenue to be obtained from the nursing home assessment in fiscal year 2014.

## **Section 30 - Study Commission on Dental Insurance**

### **SECTION 30.**

(a) There shall be a special commission on dental insurance. The commission shall review carrier contracts with dental providers and the methods by which dental providers are reimbursed for services provided to persons covered under the carriers' dental plans. The commission shall study all facets of fees charged by dentists within network dental plans, including those limited by the terms of a dentist's contract with carriers. The commission shall make recommendations to ensure that contract terms and methods of reimbursing dental providers promote the delivery of quality and affordable dental care in the commonwealth.

(b) The commission shall be comprised of the following 21 members: the undersecretary of the office of consumer affairs and business regulation, or her designee, who shall serve as chair; the commissioner of insurance, or his designee; the executive director of the group insurance commission, or her designee; the executive director of the commonwealth health insurance connector authority, or her designee; the MassHealth director or his designee; the executive director of the health policy commission, or his designee; 2 members of the senate appointed by the president; 2 members of the house of representatives appointed by the speaker; 1 member of the senate and of the house of representatives appointed by the minority leader of each; 2 dentists appointed by the Massachusetts Dental Society, 1 of whom shall be a general dentist and 1 of whom shall be a specialist; 1 representative of each of the following 4 organizations: the Retailers Association of Massachusetts; the Life Insurance Association of Massachusetts; Health Law Advocates; and Health Care for All; and 3 persons to be named by the chair, 1 of whom shall represent a medical service corporation authorized to operate under chapter 176B of the General Laws, and 1 of whom shall represent a dental service corporation authorized to operate under chapter 176E of the General Laws.

(c) The commission shall hold its first meeting within 60 days after passage of this act. The commission shall file a report detailing its work and findings, including any legislative recommendations, with the clerks of the house of representatives and the senate not later than December 31, 2013.

#### *Summary:*

This section establishes a study commission on dental insurance, to ensure that contract terms and methods of reimbursing dentists promote the delivery of quality and affordable dental care.

## **Section 31 - Study Higher Education Efficiencies and Finance**

### **SECTION 31.**

(a) There shall be a special commission on higher education efficiencies and finance.

(b) The commission shall consist of the following members: the secretary of education, or his designee, who shall serve as chair of the commission; the commissioner of higher education, or his designee; the chair of the board of higher education; the chair of the University of Massachusetts board of trustees; the house and senate chairs of the joint committee on higher education, or their designees; the chairs of the house and senate committees on ways and means committees or their designees; a member of the house of representatives, whose district includes one of the commonwealth's institutions of public higher education, appointed by the speaker of the house of representatives; a member of the senate, whose district includes one of the commonwealth's institutions of public higher education, appointed by the president of the senate; a member of the house of representatives appointed by the minority leader; a member of the senate appointed by the minority leader; 7 persons to be appointed by the secretary of education, 1 of whom shall be selected from a list of 3 nominees submitted by the Massachusetts Teachers Association, 1 of whom shall be selected from a list of 3 nominees submitted by the council of presidents of the state university system, 1 of whom shall be selected from a list of 3 nominees submitted by the community colleges executive office, 1 of whom shall be selected from a list of 3 nominees submitted by the Association of Independent Colleges and Universities of Massachusetts, 1 of whom shall be selected from a list of 3 nominees submitted by the Massachusetts Competitive Partnership; 1 person to be appointed by the secretary of housing and economic development; 1 person to be appointed by the secretary of labor and workforce development; a student representative on the board of higher education, chosen by the chair of that board; and a student representative on the University of Massachusetts board of trustees chosen by the chair of that board.

(c) The commission shall seek to define a sustainable model of financing for public higher education and the appropriate relative contributions of: (1) students and families, (2) the commonwealth, and (3) all other sources,

including federal grants.

(d) In addition, the commission shall examine, report on, and make recommendations on the full range of issues affecting public higher education financing in the commonwealth, including but not limited to: (1) leveraging current efficiencies and reforms, such as performance incentive grants and the Partnership for Collaboration and Efficiencies initiative; (2) working to better understand and allocate all available resources to the campuses, including understanding current revenue structures; (3) rationalizing the definition of tuition and fees in a manner that is transparent and consumer friendly; (4) re-evaluating the historical financing mechanisms that now restrict coherent fiscal planning, including, but not limited to tuition retention and the fiscal structure of continuing education classes; (5) reviewing currently offered tuition and fee waivers, including which waivers are still of policy value, which should be the fiscal responsibility of campuses and which of the commonwealth, and addressing the loss of revenue to campuses from the implementation of tuition retention and a redefinition of tuition and fees; (6) integrating campus capital planning with operating expenditures; (7) evaluating the appropriate adjunct faculty to full-time faculty ratio, with a review of: (i) the use of adjunct or part-time faculty, as well as the pay, benefits, responsibilities of, and support services provided to, adjunct faculty under the current system; (ii) the number and use of full-time and tenure-track faculty across the system; and (iii) the ability of the current system to attract and retain highly qualified faculty and staff; and (8) assessing the number of developmental students being served under the current system and at which institutions, and the adequacy of academic and related support systems in place for both the number and types of students served. In particular, the commission shall recommend improved efficiencies of operation in public higher education that could lead to cost savings and improvements to fiscal controls, planning, and cost allocation.

(e) Subject to appropriation, the commission shall hire temporary staff and support services. The first meeting of the commission shall take place within 45 days after the effective date of this act. The commission shall file a report containing its recommendations, including legislation necessary to carry out its recommendations, with the clerks of the house and senate not later than September 1, 2014.

*Summary:*

This section establishes a commission, chaired by the Secretary of Education, to study higher education efficiencies and finance.

## **Section 32 - Effective Date**

### **SECTION 32.**

Except as otherwise specified, this act shall take effect on July 1, 2013.

*Summary:*

This section provides that this budget takes effect on July 1, 2013 unless otherwise specified.

